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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/665,018	09/19/2000	Patrick Taylor	05456.105007	4902

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King & Spalding
191 Peachtree Street N E
45th Floor
Atlanta, GA   30303

EXAMINER
COLIN, CARL G

ART UNIT	PAPER NUMBER
2136	

DATE MAILED: 01/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/665,018	TAYLOR ET AL.
	Examiner	Art Unit	
	Carl Colin	2136	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address* --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 October 2005_ .

2a)☒ This action is **FINAL.**   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-15 and 17-20_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-15 and 17-20_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on _19 September 2000_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

    If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____ .

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

    a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _see att_ .

4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: .

DETAILED ACTION

Response to Arguments

1.   In response to communications filed on 10/12/2005, applicant amends claims 1, 8, 11,

and 12 and cancels claim 16. The following claims 1-15 and 17-20 are presented for

examination.

1.1   Applicant's arguments, pages 8-17, and supplemental interview summary filed on

10/12/2005, with respect to the rejection of claims 1-20 have been fully considered but they are

moot in view of a new ground of rejection. Applicant has amended the claims to further limit the

claimed invention. Upon further consideration, a new ground of rejection is made.

Double Patenting

2.   The nonstatutory double patenting rejection is based on a judicially created doctrine

grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

improper timewise extension of the "right to exclude" granted by a patent and to prevent possible

harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.

Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686

F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA

1970);and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to

overcome an actual or provisional rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this

application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal

disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37

CFR 3.73(b).

Claims 1, 8, 11, and 12 are provisionally rejected on the ground of nonstatutory

obviousness-type double patenting as being unpatentable over claims 2-15 and 26-33 of

copending Application No. 09/607,375. Although the conflicting claims are not identical, they

are not patentably distinct from each other because Application No. 09/607,375 of claims 1, 9,

and 11, for instance discloses similar steps to the independent claims of the application. The

difference between the application with the copending is issuing a request for a scanner and

transmitting the scanner from the server to the workstation installable within the browser or

(network client of copending) to complete a vulnerability assessment of the workstation. It is

obvious that if the security policy is maintained on the network server as disclosed in claim 11, a

request can be made to the server to install a plug-in or applet within the network client for

conducting a vulnerability assessment of the workstation as known in the art in order to compare

and implement the security policy of the network server with the workstation. Therefore, the

difference of "request for a scanner and transmitting the scanner from the server to the

workstation installable within the browser" is not a patentably distinct variation.

This is a provisional obviousness-type double patenting rejection because the conflicting

claims have not in fact been patented.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as

set forth in section 102 of this title, if the differences between the subject matter sought to be

patented and the prior art are such that the subject matter as a whole would have been obvious at

the time the invention was made to a person having ordinary skill in the art to which said subject

matter pertains. Patentability shall not be negatived by the manner in which the invention was

made.

3.1   **Claims 1-20** are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent

Publication US 2001/0034847 to **Gaul, Jr.** in view of US Patent 6,438,600 to **Greenfield et al**

and in view of US Patent 6,298,445 to **Shostack et al** *(Applicant's IDS)*.

3.2   **As per claims 1-3, 5, and 7, Gaul, Jr.** discloses remote operation performed by an

Internet Application Service to complete a vulnerability assessment of the workstation, the

invention is accomplished over the Internet from a request from client to a web server using a

web browser interface that meets the recitation of issuing a request for a scanner from a browser

operating on the workstation to a network server via a computer network and transmitting a

scanner from the network server to the workstation via the computer network, the scanner

installable within the browser and operative to complete a vulnerability assessment of the

workstation, for example (see page 2, paragraphs 0014-0018), which is clearly supported in the

provisional application (pages 12-14); generating workstation credentials in response to the

scanner conducting the vulnerability assessment of the workstation (page 9, paragraph 115)

which is found on page (41 of 66) in the provisional application. **Gaul, Jr.** also discloses using

an Internet based aspect for the invention to perform vulnerability assessment is an advantage

because it saves the company time, cost, and labor. It is well known in the art various Internet

applications to provide services from a server to a workstation as suggested by **Gaul, Jr.**, for

example (see page 2, paragraphs 0014-0018). Although **Gaul, Jr.** mentions user-server

authentication, **Gaul, Jr.** does not explicitly disclose comparing workstation credentials to

workstation policy to decide whether or not to grant access to the server and if access is granted

request for credentials associated with user. **Greenfield et al** in an analogous art of providing

services through the Internet, discloses issuing a request for a scanner from a browser operating

on the workstation to a network server via a computer network and further discloses protecting

access to all applets from server by using a verification process, verifying workstation credentials

to ensure that the user is authorized and transmitting workstation credentials to the network

server (column 7, line 45 through column 8, line 60); **Greenfield et al** also mentions that

alternatively verification can also be performed in local client machine that meets the recitation

of verifying workstation credentials to workstation policy (column 8, lines 24-30). **Greenfield**

et al also suggests (column 7, lines 23-30) implementation of Java publication by Mc Graw et al

which discloses the importance of authentication of remote users, systems, and applets: ensuring

that the host is a trusted host, the module to be downloaded is trusted and given the

authentication, next feature security system should provide is user authorization regarding level

of access (pages 4-5 authentication section and page 12). More security features are also

disclosed such as encryption, log-in, non-repudiation, etc. regarding downloadable code from an

Internet. **Shostack et al** in an analogous art discloses a method and system for assessing security

vulnerabilities of a computer before a security breach occurs. **Shostack et al** further discloses

using network security detector to scan the network for violators and assessing security

vulnerabilities of a remote computer before permitting user access and discloses receiving

credentials associated with a user the credentials comprising at least one of information about the

integrity of the workstation and a security posture of the workstation and determining if the user

is authorized to access the one or more services available on the network server by evaluating the

security credentials with the user (see column 11, line 62 through column 13, line 35).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention

was made to modify the method of **Gaul, Jr.** to include verification of workstation credentials

based on workstation policy before granting access to one or more services available on the

network server and user authentication when the workstation is secure as taught by **Shostack et

al**. One skilled in the art would have been lead to make such a modification because it allows the

application to run in an authorized set of trusted applications to determine whether all known

vulnerabilities have been assessed and whether a user has the correct permission requirements to

gain access to the network as suggested by **Shostack et al** (see column 12, lines 14-26).

As per claim 4, Gaul, Jr. discloses the limitation of further comprising the step of

completing a repair operation by the scanner to address a security vulnerability identified by the

scanner in response to completing the vulnerability assessment of the workstation (see page 2,

paragraph 0018).

As per claims 6, 9, and 14, the combined references above disclose the limitation of wherein the step of issuing a request for a scanner comprises the browser issuing a request for a Web page at the network server, the Web page hosting the scanner as a plug-in control available for installation with the browser (see **Greenfield**, column 6, lines 22-50). These claims are rejected on the same rationale as the rejection of claims 1 and 7.

Claims 8 and **10** recite the same inventive concept as claims 1, 6, and 7. Therefore, claims 8-10 and 17 are rejected on the same rationale as the rejection of claims 1, 6, and 7.

As per claims **11 and 13**, claim 11 recites some of the limitations of the rejected claims 1 and 8. Therefore claim 11 is rejected on the same rationale as the rejection of claims 1 and 8.

As per claim **12**, Claim 12 recites the same inventive concept as recited in claims 8-10 and 17 except for using a CGI script which is also suggested by **Greenfield et al** (see column 7, lines 35-45). Therefore, claim 12 is rejected on the same rationale as the rejection of claims 1 and 8-10 and 17.

As per claims **15-20,** the combined references above disclose the limitation of receiving credentials associated with a user from a browser and authenticating the user based on the credentials, and further discloses that the invention can be Internet based, for example (see **Greenfield**, column 8, lines 1-15).

Conclusion

4.   Applicant's amendment necessitated the new ground(s) of rejection presented in this

Office action. Accordingly, **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this

final action.

4.1   The prior art made of record and not relied upon is considered pertinent to applicant's

disclosure as the art discloses the use of servicing workstations through browser application and

identifying security vulnerabilities.

US Patent: 6,429,952 Olbricht;   5,872,915 Dykes et al;   6,301,668 Gleichauf et al;

6,041,347 Harsham et al;   6,275,938 Bond et al ;   5,875,296 Shi et al.

4.2   Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Carl Colin whose telephone number is 571-272-3862. The

examiner can normally be reached on Monday through Thursday, 8:00-6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Ayaz Sheikh can be reached on 571-272-3795. The fax phone number for the

organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private

PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carl Colin
Patent Examiner
January 20, 2006

AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100